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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,849	03/02/2000	Drew Bertagna	134/006	4129

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EXAMINER

CHOUDHARY, ANITA

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/516,849

Applicant(s)

BERTAGNA, DREW

Examiner

Anita Choudhary

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5 rejected under 35 U.S.C. 102(e) as being anticipated by Kadambi et al (hereinafter Kadambi US Patent 6,335,935).

Kadambi discloses a network communication switch similar to the Applicants claimed invention. In referring to claim 1, Kadambi shows the steps of:

- Receiving a plurality of packets on a first data port with a priority (col. 20 lines 9-23).
- Generating a second priority as a function of the first priority (col. 20 lines 9- col. 22 line 48).
- Prioritizing a plurality of packets as a function of second priority (col. 20 lines 9- col. 22 line 48).

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- Transmitting a plurality of packets including second priority on a second port (col. 20 lines 9- col. 22 line 48).

In referring to claim 2 and 3, Kadambi shows the prioritization based on source and destination address (col. 20 lines 24-41).

In referring to claims 4 and 5, Kadambi shows the first and second priorities being 802.1Q tag priorities (col. 16 lines 50-56, col. 17 lines 57-63, col. 18 lines 31-43, col. 20 line 24-41, col. 21 lines 29-45).

In referring to claim 6, Kadambi shows communications switch having the steps for:

Receiving a packet (col. 20 lines 9-23).

Determining a first priority for the packet (col. 20 lines 24-41).

Determining whether to mark the packet (col. 20 lines 42- col. 21 line 45).

Prioritizing the packet according to first priority as function of whether the packet is marked or not (col. 20 line 42- col. 22 line 48).

In referring to claim 18, Kadambi shows a communications switch comprising of:

- A first network interface (EIPC) for receiving packet from source network (col. 5 lines 4-9, col. 24 line 46- col. 26 line 5).
- The first network interface determining a first priority for the packet and determining whether of not to make the packet, and transmitting the packet (col. 5 line 49- col. 6 line 41, col. 18 lines 44-50, col. 22 lines 22-45, col. 26 lines 40-67).
- A second network interface (GPIC) coupled to first network interface for receiving packets, (col. 5 lines 4-9, col. 24 line 46- col. 26 line 5).

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- Second network interface for prioritizing packet or not according to first priority as a function of marked of un marked packet and transmitting packet to second network (col. 5 line 49- col. 6 line 41, col. 22 lines 22-45, col. 26 lines 40-67).

In referring to claim 7 and 19, Kadambi shows a step for prioritizing packet according to second priority as a function of the packet being marked or not marked (col. 17 lines 56-63, col. 21 lines 29-63).

In referring to claim 8 and 20, Kadambi shows first and second priorities determined as a function of different first and second values (col. 20 lines 24-41, col. 21 lines 46-63).

In referring to claim 9 and 23, Kadambi shows a first priority instantiated in the packet upon transmission from the switch (col. 20 lines 24-41, col. 21 lines 46-63).

In referring to claim 10 and 22, Kadambi shows a mark as a single bit (col. 17 lines 57-63).

In referring to claim 11, Kadambi shows removing of packet prior to transmission from switch.

In referring to claim 12, Kadambi shows prioritizing packet in a queue as a function of the first priority (col. 20 lines 14-20).

In referring to claim 12, Kadambi shows prioritizing packet in a queue as a function of the second priority (col. 21 lines 22-63).

In referring to claim 14 and 21, Kadambi shows a second priority determined as a function of a third value in the packet, wherein the first second and third values are different (col. 21 lines 22-63).

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In referring to claim 15 and 24, Kadambi shows first value as a tag priority (col. 20 lines 24-29).

In referring to claim 16, 17, 25 and 26, Kadambi shows second value as a source or destination address (col. 20 lines 29-33).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Haddock et al. (US Patent 6,104,700) discloses a policy based Quality of service for managing bandwidth allocation by prioritizing packets.

Crinion et al. (US Patent 6,181,699) discloses an apparatus and method of assigning tags to a frame received at a port.

Motoyama (US Patent 5,612,952) discloses a packet switch and buffer for storing and processing packets routing to different ports.

Chapman et al (US 6,304,552) discloses a memory apparatus for input based control of discards in a lossy packet network.

Bocking et al (US Patent 6,477,147) discloses a method and device for transmitting a data packet using Ethernet from a first device to another device.

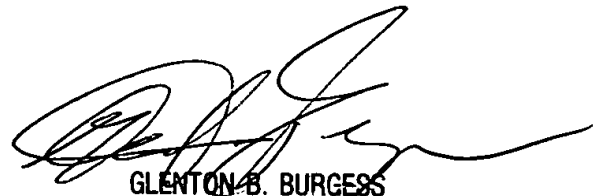
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita Choudhary whose telephone number is (703) 305-5268. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

AC
December 9, 2002



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
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